ERICK M. FERRAN, ESQ. 1 Nevada State Bar No. 009554 HITZKE & FERRAN 2 2110 E. Flamingo Road, Suite 206 Las Vegas, Nevada 89119 3 Telephone No.: (702) 496-7668 Facsimile No.: (702) 462-2646 4 Attorney for Defendant 5 UNITED STATES DISTRICT COURT 6 **DISTRICT OF NEVADA** 7 \* \* \* 8 UNITED STATES OF AMERICA, 9 Plaintiff, 10 CASE NO.: 2:22-mj-00026-DJA VS. 11 ORDER TO CONTINUE TRIAL 12 FERNANDO TAPIA-MORALES, (Third Request) 13 Defendant. 14 15 16 IT IS HEREBY STIPULATED AND AGREED, by and between CHRISTOPHER 17 BURTON, ESQ., Assistant United States Attorney, counsel for the United States of America, and 18 ERICK M. FERRAN, ESQ., counsel for Defendant FERNANDO TAPIA-MORALES, that the 19 Trial date in the above-captioned matter, currently set for December 28, 2022, at 9:00 a.m., be 20 continued for thirty (30) days or to a time convenient to this Honorable Court. 2.1 22 This stipulation is entered into for the following reasons: 23 1. Counsel for the Defendant needs additional time to prepare for trial in the case, 24 including conducting legal research and review of the discovery. The Parties also need 25 additional time to continue exploring full resolution of the matter without going to trial; 26 counsel for Defendant has made a counter-offer which the United States is considering. 27 28

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1	2. Defense Counsel and Assistant United States attorney are currently in negotiations;
2	3. Defendant Tapia-Morales is not in custody and does not object to the continuance.
3	4. All parties involved agree to the continuance.
4	5. This is the third request for a continuance of trial.
5	6. Denial of this request for continuance would result in a miscarriage of justice.
6	7. This request for a continuance is made in good faith and is not intended to delay the
7 8	proceedings in this matter.
9	8. The additional time requested by this stipulation is excludable in computing the times.
10	within which the trial herein must commence pursuant to the Speedy Trial Act, 1
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12	U.S.C. §§ 3161(h)(7)(A), when considering the factors under 18 U.S.C. §
13	3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv).
14	9. For all the above-stated reasons, the ends of justice would be best served by
15	continuance of the trial date.
16	DATED this 27 <sup>th</sup> day of December, 2022
17	/s/ Erick M. Ferran, Esq. /s/ CHRISTOPHER BURTON, ESQ.
18	ERICK M. FERRAN, ESQ. Counsel for Defendant  CHRISTOPHER BURTON, ESQ. Assistant United States Attorney
19	Assistant Office States Attorney
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# UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

VS.

FERNANDO TAPIA-MORALES,

Defendant.

CASE NO.: 2:22-mj-00026-DJA

ORDER TO CONTINUE TRIAL

#### **FINDINGS OF FACT**

Based on the pending Stipulations of the parties, and good cause appearing therefore, the Court finds that:

- Counsel for the Defendant needs additional time to prepare for trial in the case, including conducting legal research and review of the discovery. The Parties also need additional time to continue exploring full resolution of the matter without going to trial; counsel for Defendant has made a counter-offer that the United States is considering.
- 2. Defendant TAPIA-MORALES is not in custody and does not object to the continuance;
- 3. All parties involved agree to the continuance;
- 4. This is the third request for a continuance filed herein;
- 5. Denial of this request for continuance would result in a miscarriage of justice.
- This request for a continuance is made in good faith and is not intended to delay the proceedings in this matter.

7. The additional time requested by this stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A), when considering the factors under 18 U.S.C. §§ 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv).

### **CONCLUSIONS OF LAW**

- 1. The ends of justice served by granting said continuance outweigh the best interest of the public and the defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the opportunity within which to be able to effectively and thoroughly prepare for trial, taking into account the exercise of due diligence.
- 2. This request for a continuance is made in good faith and is not intended to delay the proceedings in this matter.
- 3. The additional time requested by this stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A), when considering the factors under 18 U.S.C. §§ 3161(h)(7)(B)(i) and 3161(h)(7)(B)(iv).
- 4. For all the above-stated reasons, the ends of justice would be best served by a continuance of the trial date.

	<u>ORDER</u>
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2	IT IS ORDERED that the trial scheduled for December 28, 2022, at 9:00 a.m., b
3	continued.
4	IT IS FURTHER ORDERED that the Trial in this matter be scheduled for
5	March 8, 2023, at 9:00 a.m., Courtroom 3A.
6 7	27th December DATED this day of, 2022.
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10	UNITED STATES MAGISTRATE JUDGE
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